

IC 3-11-7

Chapter 7. Approval of Ballot Card Voting Systems

IC 3-11-7-1

Necessity of approval

Sec. 1. The commission must approve a ballot card voting system before it may be used in an election.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.235; P.L.2-1996, SEC.161; P.L.239-2001, SEC.8; P.L.221-2005, SEC.48.

IC 3-11-7-2

Approval of system by commission

Sec. 2. The commission may approve a ballot card voting system only if the commission determines that the system meets the standards in this chapter and IC 3-11-15.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.236; P.L.2-1996, SEC.162; P.L.176-1999, SEC.68.

IC 3-11-7-3

Capability of system; voting in secrecy

Sec. 3. A ballot card voting system must enable a voter to cast a vote in secrecy for all offices and public questions for which the voter is entitled to vote.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.237.

IC 3-11-7-3.5

Face of ballot card

Sec. 3.5. A ballot card printed for use under this article must have the year of the election to be conducted printed or stamped on the face of the ballot card.

As added by P.L.176-1999, SEC.69.

IC 3-11-7-4

Capability of system; voting straight or split ticket variations

Sec. 4. A ballot card voting system must permit a voter to vote either:

- (1) a straight party ticket for all of the candidates of a political party by a single mark on each ballot card;
- (2) a split ticket for the candidates of different political parties and for independent candidates; or
- (3) a straight party ticket and then split that ticket by casting individual votes for candidates of another political party or independent candidate.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.238; P.L.3-1993, SEC.131; P.L.221-2005, SEC.49.

IC 3-11-7-5

Requisites of systems

Sec. 5. A ballot card voting system must be:

- (1) suitably designed for the purpose used;

- (2) of durable construction;
- (3) safe, efficient, and accurate in the conduct of elections and counting of ballots; and
- (4) in compliance with the standards for systems that are purchased after the effective date of the standards established under this chapter and IC 3-11-15.

As added by P.L.5-1986, SEC.7. Amended by P.L.6-1986, SEC.19; P.L.3-1987, SEC.239; P.L.4-1991, SEC.74; P.L.2-1996, SEC.163; P.L.176-1999, SEC.70.

IC 3-11-7-6

Counting of vote; voting straight or split ticket variations

Sec. 6. If a voter votes a straight party ticket and also votes for one (1) or more individual candidates who are all of the same political party as the straight ticket vote, a ballot card voting system must count the straight ticket vote and not the individual candidate votes as required by IC 3-12-1-7(a).

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.240; P.L.3-1993, SEC.132.

IC 3-11-7-7

Counting of vote; vote for office on ballot

Sec. 7. (a) A ballot card voting system must count the vote for an office on a ballot in accordance with IC 3-12-1-7(b) and this section whenever:

- (1) a voter has voted a straight party ticket for the candidates of one (1) political party;
- (2) only one (1) person may be elected to an office; and
- (3) the voter has voted for one (1) or more individual candidates for the office described in subdivision (2) who are in a political party other than the party for which the voter voted a straight ticket.

(b) If the voter has voted for one (1) individual candidate for the office described in subsection (a)(2), the individual candidate vote for that office must be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot must be counted.

(c) If the voter has voted for more than one (1) individual candidate for the office described in subsection (a)(2), the individual candidate votes for that office may not be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot must be counted.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.241; P.L.3-1993, SEC.133.

IC 3-11-7-8

Counting of vote; office to which more than one person can be elected

Sec. 8. If there is an office to which more than one (1) person can be elected, and a voter votes a straight party ticket and then votes

both for individual candidates in the same political party as the straight ticket vote and in a different party for that office, or votes for only individuals in a different party for that office, a ballot card voting system must in accordance with IC 3-12-1-7(c) count the individual candidate votes and not the straight ticket votes for that office. However, if the number of individual candidate votes for that office exceeds the number of openings for that office, the system must not count any of the votes concerning that office.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.242; P.L.3-1993, SEC.134.

IC 3-11-7-9

Counting vote; void ballot

Sec. 9. If a voter votes a straight party ticket for more than one (1) political party, a ballot card voting system must consider the whole ballot void except for the voter's vote for a school board candidate or on a public question in accordance with IC 3-12-1-7(d).

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.243; P.L.3-1993, SEC.135; P.L.38-1999, SEC.41.

IC 3-11-7-10

Counting of vote; use of system when number of votes cast by voter for office is less than or equal to number of openings for that office

Sec. 10. If a voter does not vote a straight party ticket and the number of votes cast by the voter for the candidates for an office is less than or equal to the number of openings for that office, a ballot card voting system must count the individual candidates' votes in accordance with IC 3-12-1-7(e).

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.244; P.L.3-1993, SEC.136.

IC 3-11-7-11

Counting of vote; system not used when number of votes cast by voter for an office exceeds number of openings

Sec. 11. If a voter does not vote a straight party ticket and the number of votes cast by that voter for an office exceeds the number of openings for that office, a ballot card voting system must not count any of the votes concerning that office in accordance with IC 3-12-1-7(f).

As added by P.L.5-1986, SEC.7. Amended by P.L.5-1988, SEC.7; P.L.3-1993, SEC.137.

IC 3-11-7-11.5

Ballot card voting system; write-in vote count capacity

Sec. 11.5. A ballot card voting system must permit the counting of write-in votes in accordance with IC 3-12-1-7.5.

As added by P.L.3-1993, SEC.138.

IC 3-11-7-12

Tests to be conducted by independent laboratory before approving

system; marketing, sale, lease, or installation of voting system; expiration of approval

Sec. 12. (a) The commission shall:

- (1) require the vendor to have tests conducted concerning the compliance of a ballot card voting system with HAVA and the standards set forth in this chapter and IC 3-11-15; and
- (2) have the results of the tests evaluated by the person designated under IC 3-11-16;

before determining whether to approve the application for certification of a ballot card voting system.

(b) The tests required under this section must be performed by an independent laboratory accredited under 42 U.S.C. 15371. The vendor shall pay any testing expenses incurred under this section.

(c) A ballot card voting system may not be marketed, sold, leased, installed, or implemented in Indiana before the application for certification of the system is approved by the commission.

(d) An approval of a ballot card voting system under this chapter expires on the date specified in section 19(a) of this chapter.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.245; P.L.2-1996, SEC.164; P.L.221-2005, SEC.50.

IC 3-11-7-13 Repealed

(Repealed by P.L.176-1999, SEC.134.)

IC 3-11-7-14

Supplementary instructions and procedures for safe and efficient use of system; issuance

Sec. 14. The commission may issue supplementary instructions and procedures for the safe and efficient use of ballot card voting systems to carry out this chapter.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.247; P.L.2-1996, SEC.166.

IC 3-11-7-15

Proposed changes to voting system; tests to be conducted by independent laboratory before approval; criteria for approval; marketing, sale, lease, or installation of changes; expiration of approval

Sec. 15. (a) A vendor may apply for approval of a proposed improvement or change to a ballot card voting system that is currently certified by the commission. A proposed improvement or change may not be marketed, sold, leased, installed, or implemented in Indiana before the application for the improvement or change is approved by the commission.

(b) An application for approval of an improvement or change must be in the form prescribed by the commission.

(c) The vendor applying for approval of an improvement or a change must have the improvement or change to the voting system tested by an independent laboratory accredited under 42 U.S.C. 15371. The vendor shall pay any testing expenses incurred under this

subsection.

(d) The election division (or the person designated under IC 3-11-16) shall review the proposed improvement or change to the voting system and report the results of the review to the commission. The review must indicate:

(1) whether the proposed improvement or change has been approved by an independent laboratory accredited under 42 U.S.C. 15371; and

(2) whether the proposed improvement or change would comply with HAVA and the standards set forth in this chapter and IC 3-11-15.

(e) After the commission has approved the application for an improvement or change to a ballot card voting system, the improvement or change may be marketed, sold, leased, installed, or implemented in Indiana.

(f) An approval of an application under this section expires on the date specified under section 19(a) of this chapter.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.248; P.L.4-1991, SEC.75; P.L.2-1996, SEC.167; P.L.3-1997, SEC.286; P.L.14-2004, SEC.108; P.L.221-2005, SEC.51.

IC 3-11-7-16

Disapproval of system

Sec. 16. The commission may not approve the marketing, sale, lease, installation, or implementation of a ballot card voting system by a vendor if the commission finds that the system fails to meet all statutory requirements.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.249; P.L.5-1988, SEC.8; P.L.4-1991, SEC.76; P.L.2-1996, SEC.168; P.L.176-1999, SEC.71; P.L.221-2005, SEC.52.

IC 3-11-7-17

Examination of previously approved voting system; rescission of approval; prohibition of use

Sec. 17. (a) The election division (or the person designated under IC 3-11-16) may periodically examine a ballot card voting system that the commission has previously approved to determine whether the system is still in compliance with all statutory requirements and whether the voting system in use in a county has the same hardware, firmware, and software as the version of the voting system that was certified by the commission.

(b) If a system does not comply with subsection (a), the commission may rescind the commission's approval of the voting system.

(c) If the commission's approval is rescinded under subsection (b), the commission may prohibit the system from being installed, implemented, leased, marketed, used, permitted to be used, or sold for use in Indiana in an election conducted under this title.

As added by P.L.4-1991, SEC.77. Amended by P.L.3-1993, SEC.139; P.L.2-1996, SEC.169; P.L.2-1997, SEC.9; P.L.3-1997, SEC.287;

P.L.176-1999, SEC.72; P.L.126-2002, SEC.57; P.L.14-2004, SEC.109; P.L.221-2005, SEC.53.

IC 3-11-7-18

Filing contracts, leases, or purchase orders with election division

Sec. 18. (a) The county executive shall file a copy of all contracts, leases, or purchase orders, including modifications, for the sale or lease of voting equipment, systems, or software with the election division.

(b) The documents listed in subsection (a) must be filed not later than thirty (30) days after the date of approval of the contract, lease, or purchase order by the county executive.

As added by P.L.4-1991, SEC.78. Amended by P.L.2-1996, SEC.170; P.L.3-1997, SEC.288; P.L.221-2005, SEC.54.

IC 3-11-7-19

Expiration of approval of voting system; renewal of approval; notice of request for renewal; conditions for renewal; approval of renewal

Sec. 19. (a) Except as provided in subsection (g), the approval of a ballot card voting system under this chapter expires October 1 of the year following the year in which presidential electors are elected under IC 3-10-2-3.

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before the commission considers the application for renewal, the election division shall give notice of the application to the circuit court clerk of each county listed in the application.

(d) When the commission considers the application, the commission shall request comments regarding the renewal of the application from any interested person. Before acting on the application for renewal, the commission must receive a report from the person designated under IC 3-11-16 indicating that the hardware, firmware, and software included in the application for renewal of the voting system is identical to the version of the voting system previously certified by the commission.

(e) After receiving the report under subsection (d) and receiving comments from interested persons, the commission shall approve an application for renewal under this section if the commission finds that the voting system:

- (1) complies with the standards prescribed under this chapter;
- (2) has worked effectively where the system has been used; and
- (3) has been adequately supported by the vendor of the system.

(f) If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

- (1) has not been certified by the commission for use in Indiana;

or

(2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

(g) A vendor subject to subsection (f) may continue to provide support during the period specified in subsection (f) to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

As added by P.L.3-1993, SEC.140. Amended by P.L.2-1996, SEC.171; P.L.3-1997, SEC.289; P.L.14-2004, SEC.110; P.L.221-2005, SEC.55.